APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,519	02/27/2004	James Daren Bledsoe	10031155-01	6922

57299   7590   08/22/2008
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EXAMINER
NGUYEN, ALLEN H

ART UNIT	PAPER NUMBER
2625	

NOTIFICATION DATE	DELIVERY MODE
08/22/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

avagoip@system.foundationip.com
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	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/788,519	BLEDSOE ET AL.
	Examiner	Art Unit
	ALLEN H. NGUYEN	2625

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>25 July 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
    See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

/King Y. Poon/
Supervisory Patent Examiner, Art Unit 2625

/Allen H Nguyen/
Examiner, Art Unit 2625

Note: 1. Applicants assume that the restriction has been imposed by the Office under the presumption that a potentially serious burden is being placed upon Examiner for carrying out an examination of Applicants' claims 32-40.

In reply: The restriction in the reply filed on 01/22/2008 is acknowledged. The traversal is on the ground(s) that there is no serious burden on the examiner for examining all species. This is not found persuasive because 1) it requires different search query for different invention. 2) The prior art used for rejecting the elected species cannot be used to reject the non-elected species. The examiner requires further search to determine whether there are other prior art directed to the non-elected species.

The requirement is still deemed proper and is therefore made FINAL.

2.   With respect to applicant's argument that "The Office action fails to disclose where in Parry can be found a suggestion or teaching of a printing device containing a memory having a limited capacity specifically selected to preclude storing all of the firmware code segments in their entirety", as recited in claims 26, 41.

        In reply: Inherently, in some instances, the new firmware code (103, fig. 1) may replace or overwrite some or all of the firmware previously store in the printing device memory (132). Therefore, a printing device containing a memory having a limited capacity to overwrite (preclude or keep from happening) storing all of the firmware code segments in their entirety (Col. 5, lines 40-42).

3.   With respect to applicant's argument that "Parry does not disclose a flag, nor even reasonably teach or suggest the use of a flag" as recited in claim 29.

        In reply: A program shown in the flowchart in fig. 5, a variable or memory location that check for Yes-or-No information. A flag may include determining whether the firmware already present in the printing device memory is an older version that the version of that firmware available on the memory module of the consumable. Based on the result of such a determination, or other factors, the replacement action (step 208) may include overwriting the existing or previous firmware components in the memory of the printing device with the new firmware components available from the memory module on the consumable (step 209) (Col. 6, lines 40-50, fig. 5).